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A MODEL STATE RELOCATION LAW

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I. THE PROBLEM

One of the curiosities of the housing relocation issue is the lack of attention it has received at the state level. In urban renewal, the relocation responsibility initially was contained in the federal legislation,¹ and very few states have troubled to include the federal requirement or to add to it as part of the state urban renewal statute. Federal attention to relocation issues in highway programs is more recent, and state legislation incorporating relocation standards has been required by the federal law.² But the expectation is that state statutes will largely be modeled on the federal provisions.³

This article proposes a model state relocation law which is intended to fill the statutory gap created by the failure of most states to legislate in this area. The model law deals entirely with the problem of relocation standards and their enforcement, and is intended to complement both state and federal⁴ legislation dealing with the related problem of relocation financial assistance. There are many reasons for urging the states to legislate standards for relocation housing. Perhaps the most important is the opportunity which exists at the state level to provide an integrative approach to the relocation problem. Relocation requirements have increasingly been standardized

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1. 42 U.S.C. § 1455(c) (Supp. V 1970).

2. 23 U.S.C. §§ 501-11 (Supp. V 1970).

3. A model state law is contained in National Cooperative Highway Research Program, Relocation Assistance Under Chapter Five of the 1968 Federal-Aid Highway Act, 12-16 (Highway Research Board Research Results Digest, No. 3, March 1969).

4. S. 1, 91st Cong., 1st Sess. (1969) standardizes relocation assistance requirements for all federal programs.

for all of the federally-assisted programs, but a relocation demand is often created by state and local programs which are not federally assisted; for these programs a state law would appear necessary. Moreover, relocation responsibilities are imposed on a program basis within the federal system so that it is difficult to integrate relocation requirements, even at the federal level. As a result, a variety of implementation difficulties have arisen.

For example, state and local agencies in federally-assisted programs may claim the same resources to meet their housing relocation needs, and no opportunity is available to sort out these conflicting claims. A common example of this kind of "double claiming" arises when urban renewal and state highway agencies operating in the same general area lay claim to identical housing units as the basis for meeting their relocation responsibilities.⁵ Other examples of relocation difficulties arising out of conflicts in federal programs may be cited. One of these arises from the application of the so-called turnover concept.⁶ An urban renewal agency may often claim that substantially all of the units in local public housing which will be vacated within the relocation period can be used by the urban renewal agency as a relocation resource. But urban renewal claims on public housing are often made in the face of long public housing waiting lists and ignore equally legitimate claims by eligible public housing applicants who have not been displaced by urban renewal.

A related turnover difficulty may arise from the fact that increasing federal involvement in urban development and redevelopment has blanketed many cities with a variety of federally-assisted projects. In the typical large city, several urban renewal and highway projects may be in the pipeline at any one time and may be in different stages of planning and implementation. Nevertheless, to take one example, families displaced by a highway project may be relocated to an area which clearly will become an urban renewal project within a short period.⁷ Once project activities begin in the urban renewal area,

5. However, urban renewal regulations do provide that urban renewal agencies are to consider the impact of competing housing demands on their ability to carry out their relocation program. DEP'T OF HOUSING AND URBAN DEVELOPMENT, URBAN RENEWAL HANDBOOK, RHA 7212.1, ch. 2, § 2 (1968) [hereinafter cited as HANDBOOK].

6. For an excellent discussion of this and other difficulties with relocation in urban renewal see NATIONAL INSTITUTE FOR EDUCATION IN LAW AND POVERTY, HANDBOOK ON HOUSING LAW, ch. III, Pt. I, at 75-82 (1969).

7. Again, urban renewal regulations provide that relocation listings "shall not include housing units which are scheduled for clearance under an urban renewal

the family may be, and often is, forced to move again. While the federal urban renewal and highway statutes contain some puzzling provisions dealing with the character of the area in which relocation housing must be located,⁸ they do not speak to this kind of turnover problem.

Of course, the problems that have just been discussed could be handled by federal as well as state legislation. But the fact that relocation problems are created by the programs of several federal agencies argues against a federal response to these difficulties, because it would require the use of extensive coordinating machinery at the federal level. One possibility is the creation of an independent federal relocation agency, with responsibility to review relocation efforts in all federal programs. But the enactment of any law which would require so startling a change in federally-assisted urban programs is unlikely, and imposing a federal review function which would have to operate through the remote and detached federal administrative machinery would be cumbersome. Legislative intervention at the state level appears more appropriate.

Other implementation problems have arisen from the failure to enforce the housing standards that have been imposed by federal law. The federal urban renewal and highway statutes require that the relocation housing to be provided must be "decent, safe, and sanitary,"⁹ and must be available at "rents and prices which . . . [those relocated] can afford."¹⁰ But there is a substantial gap between what the federal statutes promise and what actually happens in practice. Mounting evidence indicates that displaced families and individuals do not find decent, safe, and sanitary housing. When such housing is available, it is not within the range of their ability to pay.¹¹

project in planning or execution or other governmental activity." HANDBOOK, RHA 7212.1, ch. 2, § 1 (1968). Even assuming that this regulation is followed, it clearly is not comprehensive enough. For example, it would exclude housing units in urban renewal clearance projects identified in a comprehensive plan or Community Renewal Program and which have not yet reached the more specific urban renewal planning stage.

8. For example, relocation housing in urban renewal must be located in "areas not generally less desirable in regard to public utilities and public and commercial facilities" than the area from which project residents were displaced. This provision would appear to preclude relocation to suburban areas where, for example, commercial facilities are more dispersed than they are in the typical inner city slum. The comparable highway requirement is in 23 U.S.C. § 502(3) (Supp. V 1970).

9. See notes 1 and 8 *supra*.

10. This is the urban renewal language. See note 1 *supra*.

11. The classic study is Hartman, *The Housing of Relocated Families*, 30 J. AM. INST. PLANNERS 266 (1964).

A slightly different perspective on these problems can be gained if it is remembered that no relocation program can work well in a housing market that does not function properly. Presumably, the federal relocation statutes are predicated on the assumption that relocation needs can be met from the existing housing supply, for they only require that relocation housing be made "available." The difficulty with this assumption, however, is that many of those forced to relocate are in the lower-income groups. Without subsidy, the private market cannot keep the supply of housing for these groups at levels which will support an adequate relocation effort. A recent amendment to the federal urban renewal statute¹² provides that occupied housing units which are cleared in urban renewal projects must be replaced on a one-to-one basis by low and moderate-income housing. But the statute provides no subsidy for the construction or rehabilitation of these replacement units.

The model act that follows rests on the assumption that the key to a successful relocation effort lies in the impact which the relocation requirement has on the functioning of the housing market. Generally, the statute takes the position that the relocation effort must be continuously monitored to assure that reductions in the housing stock do not have an adverse impact on the housing supply; a variety of statutory requirements have been inserted with this general objective in view. The statute also has been extended to relocation created by private as well as public development activities, at least insofar as they affect the housing stock.

II. THE MODEL LAW¹³

AN ACT relating to relocation.

Be it enacted by the General Assembly of the State of
..... as follows:

Section 1. Definitions.

"Department" means the State Department of Commu-
nity Affairs.

12. 42 U.S.C. § 1455(h) (Supp. V 1970).

13. A few states have enacted relocation statutes applicable to urban renewal which do attempt to strengthen the federal requirements. MICH. STAT. ANN. § 5.3535(2) (1969): "In case of urban renewal of a substandard residential area with new housing including the relocation of 200 or more occupied dwelling units the unit of government in which the project is located shall assure available land or housing for either rental or purchase in the same general area by low and middle income families. . . ." A similar provision is found in CAL. HEALTH & SAFETY CODE § 33411.4 (Supp. 1970), which also provides that when insufficient relocation housing units are available for low and moderate-income

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Comment: In general, the statute requires the submission of relocation plans by public and private agencies causing relocation and the review of these plans by an outside agency. Many states now have departments of community affairs, or similar agencies, and this statute places the reviewing function in that department. When there is no urban affairs or similar agency at the state level, the selection of the appropriate agency to administer the statute can present some difficult problems. One solution is to delegate the statutory review function to the appropriate regional planning agencies, or to county planning agencies in the smaller metropolitan areas. The governor or some other state official also could be given the authority to designate the agencies which are to implement the statute.

“Displace” or “Displacement” means a change in residence by any family, whether voluntary or involuntary, which is directly attributable to any of the following:

(1) the acquisition or the filing of proceedings for the acquisition of any real property by any agency;

(2) the designation, formal or informal, by any agency of any real property for future acquisition by such agency. As used in this section, “designation” includes, but is not limited to, any indication on a comprehensive plan, by map, text, or otherwise, that land will be acquired at some future time by a public agency.

(3) the filing of an application for state or federal financial assistance by any agency which may, or will, result in the future acquisition of real property by such agency;

(4) the rehabilitation of buildings, dwellings, or other improvements by any agency, whether or not undertaken in accordance with an urban renewal plan or in compliance with a local housing code or similar ordinance.

Comment: The definition of “displace” and of “displacement” contains the heart of the bill, for relocation responsibilities imposed by the bill must be assumed only when displacement occurs. First, the bill refers to residential rather than business displacement. Problems growing out of housing displacement were deemed to create difficulties different from those growing out of business displacement, and

families “the redevelopment agency may, to the extent of that deficiency, direct or cause the development, rehabilitation, or construction of housing units within the community. . . .” The Wisconsin statute which requires relocation assistance payments in all public programs which create a relocation problem utilizes an approach to the provision of replacement housing which is similar to that contained in this model act. *See* WIS. STAT. ANN. § 32.19(3) (Supp. 1970).

for this reason seemed to require special statutory attention. Second, the definition of displacement is intentionally backwards. That is, the act which triggers the application of the statute is a housing move on the part of the affected family, and not an act on the part of the agency which is responsible for the move. The statute applies, moreover, even if the housing move is voluntary. The reason for this language, as will shortly appear, is that many residential moves occur early in the planning process of many public and private projects. Many of the housing moves at this stage escape the applicable statutes. For example, the federal relocation requirements under federally-assisted urban renewal projects do not come into play until the contract for federal financial assistance has been executed. By this time, many residents in urban renewal projects will have voluntarily left the area.

But statutory responsibilities are not limited only to project residents, as one example, or to persons living in highway rights-of-way, as another. The statute applies whenever there is a residential move which is "directly attributable" to any of the enumerated public or private actions which bring about the displacement. The purpose of this proviso is to require a linkage between the residential move and the action which triggers the move. Inclusion of the proviso is also made necessary by the fact that the statute applies, as will be indicated, in the project planning stage, when project boundaries and plans may not be clear.

Subsection (1). In addition to taking care of the most obvious example of residential displacement, this subsection takes care of the project in which there is no earlier activity which can be identified as responsible for the housing move. Although the statute does not define "real property," a definition may be necessary, if not provided elsewhere in the statutes, to make it clear that the relocation law applies to such takings as the acquisition of air rights, or open space easements.

Subsection (2). State statutes now provide for formal project designations in a variety of ways. One example is the so-called official map, on which future highway rights-of-way may be indicated. In urban renewal, some states also require the local governing body to designate the boundaries of urban renewal projects by legislative action. But the model law also applies to "informal" designations to take care of the cases where no formal act occurs. Although informal designations may be troublesome to define, the administering agency usually should be able to find some official activity which marks the

start of a project. One such activity is the filing of an application for financial assistance, which is explicitly covered by subsection (3).

The statutory language has purposely been broadly written to include comprehensive plan "indications." There is no requirement that the plan be formally adopted, but presumably the plan must at least have been published for the statute to be operative. Although this requirement may be considered too strict, it is also true that the publication of future project locations in a comprehensive plan can be just as dislocating as more specific project designations. Since many state urban affairs agencies are empowered to review comprehensive plans in any event, the application of a relocation requirement at this stage should not be unduly burdensome. However, if a regional or other planning agency is given the review function by this statute, it may be necessary to provide an alternative outside review when it is the plan of the reviewing agency that is brought into question. Perhaps the review function could be lodged in the governor's office in this situation.

Subsection (3). This provision has already been discussed. It is especially important to read this provision in light of the inclusion of specified private entities in the definition of agency, since it may be difficult to isolate an informal "designation" by a private agency at an earlier stage in the development of a project.

Subsection (4). This subsection takes care of the situation in which a private owner undertakes residential rehabilitation. In this case, no formal land acquisition proceedings will have been filed. There is no requirement that rehabilitation be undertaken as part of an urban renewal project or in response to a local housing code compliance program. In other words, the statute applies even though rehabilitation is undertaken voluntarily, and not in response to some official action, such as a citation for housing code violations.

In summary, public and private agencies undertake any of the actions enumerated at their own risk. If a residential move results, whether voluntary or involuntary, which is attributable to their action, the provisions of the statute apply.

"Agency" means any public or private agency.

"Public agency" means the state and any of its departments or commissions, and any unit of local government, including, but not limited to, cities, counties, special districts, public housing authorities, and urban renewal authorities.

“Private agency” means any person, partnership, corporation or other business entity organized or authorized to provide or rehabilitate housing, buildings, or other improvements with state or federal financial assistance.

Comment: The definition of “private agency” is critical. When read in conjunction with the enumerated actions causing displacement which will trigger the application of the statute, it is clear that only the private and subsidized rehabilitation of dwelling units come under the sweep of the law. The reason is that dwelling units rehabilitated under subsidy presumably have been serving lower-income groups, and it is this alteration in the housing supply for these groups that warrants statutory interest. It may be argued that the rehabilitated housing unit still will be in the housing supply, but experience has indicated that even units rehabilitated with subsidy require a rental or cost increase, so that the housing demand served by the rehabilitated unit will not be the same as when the demand was served by the unit prior to rehabilitation. For this reason, relocation of the prior occupant appears essential.

“Family” or “Families” includes an individual person, or persons not related by blood or marriage, inhabiting a single dwelling unit prior to displacement.

“Relocation plan” means a plan for the provision of replacement housing.

“Replacement housing” means housing for displaced families which is:

(a) comparable to, or better than, the housing from which the family was displaced and is decent, safe, and sanitary;

(b) not likely to be acquired or rehabilitated in the reasonably near future;

(c) available at rents or prices within the financial means of the displaced family. A dwelling is available at rents or prices within the means of the displaced family only if:

(1) the purchase price does not exceed the amount paid to the displaced family for the dwelling taken plus the highest principal amount of a loan which is available with the aid of any federal or other program of loan insurance, PROVIDED that the total monthly payments for housing do not exceed twenty (20) per cent of the gross monthly income of such displaced family at the time of displacement; or

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(2) the monthly rental is not greater than twenty (20) per cent of the gross monthly income of such displaced family at the time of displacement.

“Monthly payments for housing” and “Monthly rental” include payments, if any, for taxes, insurance, and utilities, and “monthly payments for housing” also include any sum reasonably required for the maintenance and upkeep of the dwelling.

Comment: “Replacement housing.” Subsection (a). This requirement is more stringent than the federal law, since it requires that replacement housing be comparable to, or better than, the housing from which the residential move was made. Urban renewal projects cover slum areas in which housing is presumably substandard, but this is not the case in other projects, such as highways. Since the “decent, safe, and sanitary” requirement is only a minimum, it does not guarantee to those displaced a dwelling which is at least as good as the dwelling that was vacated.

Subsection (b). This clause will avoid reliance on housing in areas which are about to undergo clearance or rehabilitation. It is intended to preclude the frequent relocation of displaced families and individuals to areas scheduled for early acquisition in urban renewal projects, but it is not limited to this situation. The reference to “rehabilitation” is not qualified and includes rehabilitation by private agencies.

Subsection (c). This provision clarifies some of the ambiguities in the comparable federal provisions. With reference to the position of the homeowner, the statute adopts a replacement cost theory of compensation. Thus, the displaced homeowner must be able to acquire a dwelling which meets the statutory standard with the proceeds of his compensation award together with any loan which is “available” under a subsidy program. The statute does not require that the displaced homeowner actually secure a loan. If he does not, it is likely that relocation housing available to him will not be available within the cost limitation prescribed by the statute.

A ceiling is placed on family income that may be allocated to housing following relocation. This provision is modeled in part on Indiana Annotated Statutes § 3-1753(n) (1968). Setting a statutory limit may be arbitrary, and in the alternative the department might have been authorized to fix a limit after considering a variety of enumerated factors bearing on ability to pay. This approach to the problem is certainly a possibility. However, since there is little agree-

ment on the amount of income that should be allocated to housing, and since the basis for making this determination is highly judgmental, setting a statutory maximum appeared just as equitable and had the advantage of simplifying administration.

Even so, a flat 20 per cent limitation is arbitrary from another perspective. For example, it takes no account of the fact that housing expenditures decline proportionately as income increases, nor does it take care of differences in disposable income due to differences in family size, number of wage earners, and other factors. However, since American families on the average spend 15 per cent of their income for housing, and since families at poverty levels may spend up to 35 per cent or more, the statute errs on the side of favoring those who are less affluent. Additional statutory elaboration of this requirement could include a statutory definition of income to be counted in determining the allowable amount to be spent for housing purposes. But the statute does authorize departmental regulation in Section 9, and this problem presumably could be handled by departmental definition.

The impact of the statutory requirement is to place a ceiling on the amount to be spent on relocation housing, but not to prevent rent or monthly payment increases by relocated families, provided the statutory ceiling is not violated. However, setting the housing payment ceiling as low as it is in this law will require the infusion of substantial amounts of subsidized housing into the market if the relocation standard is to be met.

Monthly payments and rentals are defined to include taxes, maintenance, and the like. Inclusion of amounts needed for these items is not usually required. Presumably, the amounts required for each of these items will be estimated at the time relocation housing is provided.

Section 2. Relocation Requirement. No agency may displace any family unless:

- (1) It has filed a relocation plan with the Department;**
- and**
- (2) The Department has approved the relocation plan.**

Comment: This requirement must be read in conjunction with the definition of "displacement" in Section 1. The effect of the statute is to force every public or private agency to proceed at its own risk with any of the actions specified in that section which may lead to a voluntary housing move, if the agency does not file a relocation plan

for approval. Should a voluntary residential move occur, the department is authorized by Section 10 to enjoin the agency from proceeding with actions leading to displacement until a relocation plan is approved.

Section 3. Approval of Relocation Plan. The Department may approve a relocation plan if it finds that replacement housing will be available for all families to be displaced, and that the plan is consistent with all regulations promulgated by the Department. The Department may not consider as replacement housing any housing included in the relocation plan of any other agency, if such relocation plan has previously been approved by the Department. However, if one or more relocation plans have been filed with the Department for approval but have not been approved, and if one or more of these relocation plans include the same replacement housing, the Department may make a fair and reasonable allocation of any such replacement housing between and among these agencies.

Comment: This section contains the standards which guide departmental review and approval of relocation plans. In determining whether "replacement housing" has been provided for all those to be displaced, the department is to look to the provisions of this and the following two sections, as well as to the definition of replacement housing in Section 1. Furthermore, the relocation plan must comply with all departmental regulations. This proviso makes it clear that the plan must comply with any elaboration of the statutory requirements which the department may impose under the regulatory authority conferred by Section 9. That section, for example, explicitly authorizes regulations covering such matters as the timing and phasing of relocation.

This section is also intended to prevent double counting. Relocation housing resources previously claimed in a relocation plan which has been approved by the department may not be claimed in a relocation plan which is subsequently filed. If identical replacement housing resources are claimed in applications filed but not yet finally approved, allocation by the department is authorized. No time limit is placed on the approval process, and the department may presumably provide for joint consideration of pending applications that claim the same housing resource.

The statute takes the position that approval of a relocation plan is not an adjudication requiring hearing and notice. Therefore, pro-

cedural safeguards considered necessary for the consideration of relocation plans have been left for the department to provide at its discretion. In the alternative, the adjudication requirements of the state administrative procedure or similar statute may be made applicable.

Section 4. Turnover Housing. Housing to be made available through normal turnover, and which is assisted by federal or state financial assistance, may not be approved as replacement housing by the Department unless the Department finds that such housing is not required by families otherwise eligible for such housing and who are not displaced. Notwithstanding this provision, the Department may allocate a fair and reasonable amount of such housing to the needs of displaced families.

Comment: This section prevents displacing agencies from claiming as a relocation resource any housing made available through turnover in subsidized housing, subject to a decision by the department to allocate a portion of such housing for relocation needs. Turnover housing may also be counted as replacement housing if the department finds that it is not "required" by persons "otherwise eligible" for such housing. This proviso is to be interpreted to allow the department to determine when such subsidized housing is needed by persons other than those displaced. For example, the department may base its finding on the size of waiting lists for subsidized housing, although it is not limited solely to this factor. Moreover, the statute is intended to override preference determinations by public housing authorities and owners of private subsidized housing, but only to the extent that the department is authorized to consider the adequacy of relocation plans under this statute.

Section 5. New and Rehabilitated Housing. If the Department finds that displacement will occur because of the demolition or removal of any residential structure or structures, it shall require that the relocation plan include replacement housing to be provided by construction or rehabilitation, equal in number to the number of units demolished or removed, and within reasonable distance of the structures so removed or demolished.

Comment: This section enacts what has come to be known as the one-to-one requirement, and is patterned after a similar provision found in the federal urban renewal law. The theory of this section is that the removal of a housing unit from the housing market must

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be matched by its replacement through construction or rehabilitation if the market is to continue to function properly in serving the needs of low-income groups. However, the section as drafted differs from the federal law. For example, the federal requirement is applicable only to urban renewal projects, but this provision applies to the removal of any housing unit. This difference in the statutory requirement has important implications for housing strategies. As dwelling units eliminated in urban renewal projects are presumably substandard and therefore occupied by lower-income groups, the principal thrust of the federal law is to require the replacement of dwelling units at these income levels. Since the model state act is not so limited, it requires the replacement of middle-income and even upper-income dwelling units when these units are eliminated by the displacing agency.

However, the new or rehabilitated housing required by this section must meet the statutory tests for "replacement housing" contained in Section 1. For example, if the families displaced by the elimination of dwelling units are middle-income families, the replacement housing need only be within their financial means, within the limitations prescribed by the "replacement housing" definition. As a consequence, this law, unlike the federal law, requires a one-to-one replacement of housing meeting the needs of the families that are displaced. From this perspective, the statute imposes an arguably crude requirement for the maintenance of the housing supply, which is based on the theory that replacing housing units at the income level at which they were withdrawn will contribute to the health of the housing market. A more sophisticated statutory requirement would take account of the distribution of housing needs by income groups, and of the impact of replacement levels on the housing supply and the filtering process.

But the statute does require that replacement housing be within a reasonable distance of the housing removed or demolished. Unlike the federal law, it does not require that the housing be within the jurisdiction of the displacing agency, and the applicability of the statute to state agencies would tend to limit the importance of such a requirement at the state level. Since studies have shown that lower-income families make shorter moves on the average than more affluent families, the distance requirement was thought to be essential to make replacement housing truly available to lower-income groups. Nevertheless, the distance requirement carries an implicit statutory

choice which affects strategies for ghetto dispersal or containment. Whenever nonwhite groups are displaced by the elimination of their dwelling units, the statute will require that replacement housing be located within the same general area. This is a containment strategy. To the extent that ghetto dispersal is considered a more attractive alternative, the distance requirement may be eliminated.

Section 6. Review of Relocation Plans. The Department shall from time to time review all relocation plans approved by it. If the Department finds that families who have been displaced have not been afforded replacement housing as provided in a relocation plan, it may order that no additional displacement may occur until the agency has submitted an amended relocation plan, and until the amended relocation plan has been approved by the Department.

Comment: Since the department is empowered to take action by "order" under this section, it is assumed that the provisions of the state administrative procedure act which cover agency adjudications will apply. The key word in this section is "displacement." Since displacement has been defined as a voluntary or involuntary housing move attributable to a variety of agency actions, the department by this section is empowered to order that no agency action which will result in a voluntary or involuntary move may occur until an amended relocation plan has been filed and approved. Since this section does not come into operation until the agency project is well under way, it is expected that the "voluntary" move possibility will not be troublesome. The agency by this time will have undertaken affirmative actions, such as the filing of condemnation proceedings, which require "involuntary" moves.

Section 7. Amended Relocation Plans. (1) Any agency may at any time submit to the Department an amendment of an approved relocation plan.

(2) The Department may also require that an agency submit an amendment to an approved relocation plan if the Department finds:

- (a)** that implementation of an approved relocation plan has been substantially delayed; or
- (b)** that changes in the supply of replacement housing require an amendment of an approved relocation plan.

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Section 8. The Department shall review all amendments to relocation plans, and may approve an amended relocation plan if it finds that the plan, as amended, meets all of the standards and requirements that are applicable to the original approval of relocation plans.

Comment: These sections must be read in conjunction with Section 6. That section authorizes departmental review of a relocation plan when families covered by the plan have not been afforded replacement housing. Section 7 triggers a review when the department considers that project delays or changes in conditions warrant such a review. It takes care of the problem that arises when an agency delays the start of a project once its relocation plan has been approved. In that situation, the department may feel that review of the relocation plan is warranted, although no families have yet been displaced. Even if project execution has started, and even though replacement housing has been provided for those displaced, the department may decide that review is warranted because changes indicate that difficulties in relocation may occur in the future. Presumably, the department may require the joint review of relocation plans which have claimed more than one housing resource. To this extent, this section widens the authority of the department to prevent double claiming, since it can reopen consideration of an approved relocation plan whenever it considers that development after the approval of that plan, including the filing of new plans by other agencies, has indicated that double claiming has occurred.

Section 9. Regulations. The Department may adopt and from time to time may amend regulations to implement the provisions of this section. Regulations adopted or amended by the Department may include requirements which minimize the effects of relocation on families to be displaced, including requirements that displacement be staged or phased over reasonable periods of time.

Comment: It was felt that this was an appropriate point at which to authorize the department to consider the impact on replacement of agency strategies in project execution. The "minimize . . . effects" language is broad enough to authorize the department to adopt regulations which affect project planning. For example, the department could require urban renewal or highway agencies to plan their projects to avoid undue displacement of minority groups. If this much interference with project planning is considered undesirable, statutory

language can be tightened. Section 3 authorizes the department to disapprove relocation plans not "consistent" with departmental regulations.

Section 10. Enforcement. The Department may enforce any regulation or order in any court of competent jurisdiction, and the Department or any family affected may file for equitable or similar relief in any court of competent jurisdiction to restrain or otherwise prevent any displacement which is not in accordance with a relocation plan approved by the Department.

Comment: In addition to this section authorizing court enforcement, a provision might also be added authorizing the collection of damages suffered by any displaced family who is displaced in violation of the statute, *e.g.*, relocated to housing which is not replacement housing. The clause authorizing third party enforcement should receive an expansive construction. It is intended to codify the standing concepts adopted in recent cases allowing urban renewal project residents to bring suits challenging relocation programs. Notice that the section authorizes court action enjoining "displacement." For the importance of this word in this context see the comment to Section 6.

Section 11. Short Title. This Act may be cited as the "Relocation Review Act of 19—."

CONCLUSION

Like the federal laws, the model state law can be criticized for strengthening relocation responsibilities without providing the statutory authority to build low-income housing or the subsidies which such housing requires. Unless an independent effort is made to increase the supply of housing for low-income groups, even a strong state relocation law will fall short of its promise. But the model state law does authorize a comprehensive and interlocking review of all of the activities of public and private agencies in the housing market, as these activities affect the relocation problem. Moreover, it adopts an approach to relocation which seeks to protect the housing supply from any damaging effects which may prove detrimental to lower-income groups. To this extent, the model law contributes to the creation of a legal and political setting in which relocation can succeed.